

## **Written Majority Authorization**

### **Representatives to Contact**

- 1) The petitioner must name and provide contact information for its representative. The representative must have knowledge of the positions included in the petitioned-for unit and any other bargaining units that include other employees of the Respondent. The representative must be prepared to respond to phone calls, letters, and/or emails from the DLR.
- 2) The petitioner must also name and provide contact information for a representative for the employer that, to the best of his/her knowledge, has knowledge of the petitioned-for positions and is available to respond to phone calls, letters, and/or emails from the DLR.

### **Showing of Interest**

- 1) **Written Majority Authorization Evidence**

Written Majority Authorization Evidence may be in card or petition form and must be signed and individually dated and include the following language:

## WRITTEN MAJORITY AUTHORIZATION

- I, **(FULL NAME & Job Classification/Title)**, designate **(PRINT OR TYPE NAME OF EMPLOYEE ORGANIZATION)** as my representative for the purposes of collective bargaining. I certify that this designation is my free act and deed and is given without consideration.

### SIGN & DATE

- If the petitioned-for unit consists of both professional and non-professional employees, all professional employees must include an additional statement (either on the card/petition itself or on an accompanying signed & dated document) that they agree to be included in a collective bargaining unit consisting of both professional and nonprofessional employees.
- Signatures must be dated within 12 months of the filing of the petition.
- The DLR and the outside neutral, if any, maintains the confidentiality of the written majority authorization evidence. The written majority authorization evidence is not furnished to or examined by any of the parties or any other individual or entity (except insofar as the petitioner was in possession of the written majority evidence prior to submission).

### Initial DLR Steps

- 1) The DLR contacts the petitioner to clarify the scope of the petitioned-for unit or correct minor discrepancies prior to taking any further action on the petition.
- 2) The DLR notifies the parties when the petition is docketed. The Notice includes a description of the petitioned-unit and an explanation of the written majority authorization procedure and associated timeframe.

### Processing of the Petition

- 1) The DLR performs an initial review of the petition for apparent defects and to determine if the Petitioner has submitted sufficient written majority evidence. If the petition is not materially defective and sufficient evidence of written majority authorization has been submitted, the DLR notifies the parties that the DLR docketed the petition.
- 2) Within 10 days from the date that the DLR has docketed the Petition, the petitioning employee organization notify the DLR whether the

employee organization and the employer have agreed upon an outside neutral or whether the DLR will act as the neutral for the purpose of conducting a confidential inspection of the written majority authorization evidence and verifying the employee organization's majority support. If the employee organization fails to provide this notice to the DLR or the parties cannot agree on a neutral, the DLR assumes the role without further notice. If the parties agree upon an outside neutral, the employee organization notifies the DLR of the outside neutral's name and contact information including e-mail.<sup>1</sup> If an outside neutral is retained, the outside neutral performs his or her function pursuant to [456 CMR 14.19\(11\)](#).

### 3) Employer Written Response to the Petition

No later than three days after the selection of the neutral, the employer provides the petitioning employee organization and the Neutral with a written response to the Petition. The written response contains the following:

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<sup>1</sup> [456 CMR 14.19\(6\)](#).

a) List of Employees in Petitioned-for Unit

The employer must provide a list containing the full names and titles or classifications of the employees in the petitioned-for bargaining unit. The list must be provided regardless of whether the employer is filing any challenges. This list includes all employees who were employed on the filing date of the Petition. **If the employer does not supply this information within the specified timeframe, the employer is precluded from filing any challenges or exceptions and the DLR, or outside neutral, if any, determines the sufficiency of the written majority authorization based upon information provided by the petitioning employee organization.** If the employer does not provide this information within three days after the selection or designation of the neutral, the petitioning employee organization provides this information to the Neutral within two business days from the date that the employer's information was due.

b) Challenges and all Evidence in Support Thereof

The employer must include all evidence it intends to produce in support of its challenges in its Response. Potential challenges include:

- A claim that the petitioner's evidence regarding the written majority authorization evidence is invalid and does not conform to the requirements of [456 CMR 14.19 \(1\)\(a\) through \(3\)\(g\)](#). The challenge includes factual disputes concerning the validity of the written majority authorization evidence including, for example, whether an employee was employed on the date that the petitioning employee organization filed the Petition of Certification for Written Majority Authorization.
- A claim that the petitioned-for bargaining unit is inappropriate. If the employer challenges the appropriateness of the unit, in addition to any evidence in support of its challenge, the employer must also describe with particularity what it considers to be an appropriate unit.

- A claim that the petitioned-for unit includes managerial, confidential or casual employees who are not employees within the meaning of [M.G.L. c. 150E, § 1](#). See the Summary of Law Section III(B)(3) of the Guide to Massachusetts Public Employee Collective Bargaining Law for further discussion of managerial, confidential and casual employee status. Evidence in support of a challenge that certain employees are managerial or confidential include job descriptions, organizational charts, and affidavits from persons with first-hand knowledge of the challenged individuals and specific examples of duties they perform that meet the statutory criteria.
- A claim that the union engaged in fraud or coercion in obtaining the written majority authorization evidence. Such an allegation is alleged with particularity and the party or employee alleging fraud or coercion must provide its evidence of fraud or coercion in the form of a sworn affidavit. The employer filing the written opposition containing an allegation of fraud or coercion must provide some evidence that it has made an independent investigation into the veracity of the fraud or coercion claim prior to raising the claim in the written opposition. If no such evidence is provided, the employer is precluded from raising claims of fraud or coercion during the pendency of the Petition.

c) Statement Regarding Other Unions or Petitions

A statement that no other employee organization has been or currently is lawfully recognized as the exclusive representative of the employees in the appropriate bargaining unit and that there are no outstanding petitions, filed pursuant to [M.G.L. c. 150E § 4](#), by any other employee organization which includes any of the employees, titles, or classifications in the petitioned-for unit.

d) Any Other Issues Raised by the Petition

- 4) Within three days of receiving the employer's written submission, the petitioner files a response including any challenges regarding specific employees or job titles included in the employer's list of employees.<sup>2</sup> If the petitioner provides the neutral with a list of the employees in the petitioned-for unit because the employer failed to supply this information, the employer can challenge the inclusion or exclusion of

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<sup>2</sup> [456 CMR 14.19\(8\)](#).

a name on the list within three days of presentation of the petitioner's list to the neutral.<sup>3</sup>

### Challenge Determination

The Neutral (at the DLR, the neutral agent making this determination is a Hearing Officer) makes a determination regarding the employer's challenges based on written submissions. There is no hearing.

#### 1) Challenges that Affect the Determination of Majority Status

If the number of challenged employees would potentially result in the petitioner's inability to show that a majority of the petitioned-for unit supported certification, the Neutral rules on the challenges.

If the Neutral determines that the employer's challenges are without merit or if the employer failed to provide evidence in support of its challenges, the Neutral dismisses the challenges and verifies the petitioner's majority support.

If the Neutral determines that the challenges have merit, the Neutral dismisses the petition.

#### 2) Challenges that do not Affect the Determination of Majority Status

If the number of positions/employees within the scope of the employer's challenges would not change the determination of the petitioner's majority status, the Neutral dismisses the challenges.

#### 3) The Neutral's decision regarding the employer's challenges is based solely on the parties' written submissions. The Neutral requests further information from either party if necessary.

### Final Verification and Certification

If after ruling on all challenges, the Neutral determines that the petitioner has supplied sufficient evidence verifying majority support of the petitioned-for unit, the DLR issues a certification of the bargaining unit.

The DLR completes the verification process within 30 days.<sup>4</sup> The regulations describe two specific circumstances that permit the verification process to extend beyond 30 days: 1) the neutral must resolve the employer's challenges and 2) allowing the petitioner to become compliant

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<sup>3</sup> [456 CMR 14.19\(8\).](#)

<sup>4</sup> [456 CMR 14.19 \(14\).](#)

with G.L. c. 150E sec. 13 and 14. However, the regulations do not limit “exceptional circumstances” to those specifically listed.

## Appeal

There is no judicial review of a representation decision and that includes WMA decisions. However, after the DLR certifies the petitioned-for bargaining unit, a party may seek review of the certification through the Reinvestigation of Certification procedure outlined in [456 CMR 14.15](#). Additionally, should the DLR dismiss the WMA Petition, the DLR's decision to dismiss is subject to its reconsideration procedure outlined in [456 CMR 15.05](#). Thus, after the DLR declines to issue a Certification based on WMA, the labor organization seeking Certification can file a request for review of such dismissal by filing a request with the CERB within ten days from the date of receipt of notice of such refusal. For further guidance, see [456 CMR 15.05 \(9\)](#).